

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1389

Introduced by Senator Corbett

February 24, 2012

An act to add Section 268 to, and to add and repeal Section 13012.7 of, 13024 to the Penal Code, relating to Internet crimes *crime statistics*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1389, as amended, Corbett. ~~Sex crimes and identity theft including minors: Internet use. Internet crimes: data collection.~~

Existing law makes it a crime to engage in various acts constituting an invasion of privacy, such as wiretapping and eavesdropping.

Existing law requires the Attorney General to, subject to adequate funding, direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to hate crimes.

This bill would require the Attorney General to direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to criminal activity that is generated by the misuse of private information gathered from the Internet. The bill would require the Department of Justice, in consultation with the Office of Privacy Protection, to survey local law enforcement agencies to obtain information that tracks the amount and type of criminal activity that is generated by that criminal activity and to publish on the department's Internet Web site the information obtained pursuant to this requirement, as specified. By imposing additional duties on local law enforcement agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law defines various crimes, including rape, lewd and lascivious acts with a child, human trafficking, and identity theft. Existing law also requires the Department of Justice, annually by July 1st, to submit to the Governor a report containing the criminal statistics of the preceding calendar year and to present at other times as the Attorney General may approve reports on special aspects of criminal statistics.~~

~~This bill would make a person who commits specified sex crimes or identity theft, if the victim is a minor and the defendant made use of the Internet in the commission of the crime, guilty of cyber crimes against a minor, which would receive the same sentence as the underlying crime. The bill would also, until January 1, 2015, require the Department of Justice to include information on cyber crimes against a minor in the annual report to the Governor. By creating a new crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13024 is added to the Penal Code, to
- 2 read:
- 3 13024. (a) The Attorney General shall direct local law
- 4 enforcement agencies to report to the Department of Justice, in a
- 5 manner to be prescribed by the Attorney General, any information
- 6 that may be required relative to criminal activity that is generated
- 7 by the misuse of private information gathered from the Internet.

1 *The Attorney General shall consider the use of a form or a check*
2 *box to increase the availability of information sought by this*
3 *section.*

4 *(b) The Department of Justice in consultation with the Office*
5 *of Privacy Protection shall survey local law enforcement agencies*
6 *to obtain information that tracks the amount and type of criminal*
7 *activity that is generated by the misuse of private information*
8 *gathered from the Internet.*

9 *(1) The survey shall look at information including, but not*
10 *limited to, arrest information and presentence reports.*

11 *(2) The survey shall include interviews with a wide array of law*
12 *enforcement officials, including, but not limited to, police officers,*
13 *sheriffs, and district attorneys.*

14 *(3) The survey shall include how local law enforcement agencies*
15 *in each county currently collects information on criminal activity*
16 *that is generated by the misuse of private information gathered*
17 *from the Internet.*

18 *(c) The Department of Justice shall publish on the department's*
19 *Internet Web site the information obtained pursuant to this section.*
20 *The published information shall include examples of how the*
21 *private information was obtain and how it was misused, the*
22 *amounts and types of criminal activity that were generated, and*
23 *recommendations of how to reduce Internet-related criminal*
24 *activity and protect vulnerable populations.*

25 *SEC. 2. If the Commission on State Mandates determines that*
26 *this act contains costs mandated by the state, reimbursement to*
27 *local agencies and school districts for those costs shall be made*
28 *pursuant to Part 7 (commencing with Section 17500) of Division*
29 *4 of Title 2 of the Government Code.*

30 ~~SECTION 1. Section 268 is added to the Penal Code, to read:~~

31 ~~268. A person who commits a violation of Section 261, 261.5,~~
32 ~~261.9, 264.1, 265, 266, 266e, 266f, 266i, 266j, 267, 269,~~
33 ~~273i, 288, or 236.1 if the purpose is a violation of the preceding~~
34 ~~provisions, or Section 530.5, shall be guilty of cyber crimes against~~
35 ~~a minor, if the victim is a minor and the defendant made use of~~
36 ~~the Internet in the commission of the crime. A commission of cyber~~
37 ~~crimes against a minor shall be punished in the same manner as~~
38 ~~the underlying crime.~~

39 ~~SEC. 2. Section 13012.7 is added to the Penal Code, to read:~~

1 ~~13012.7. (a) The annual report published by the department~~
2 ~~under Section 13010 shall include information concerning arrests~~
3 ~~for violations of Section 268.~~

4 ~~(b) This section shall remain in effect only until January 1, 2015,~~
5 ~~and as of that date is repealed, unless a later enacted statute, that~~
6 ~~is enacted before January 1, 2015, deletes or extends that date.~~

7 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
8 ~~Section 6 of Article XIII B of the California Constitution because~~
9 ~~the only costs that may be incurred by a local agency or school~~
10 ~~district will be incurred because this act creates a new crime or~~
11 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
12 ~~for a crime or infraction, within the meaning of Section 17556 of~~
13 ~~the Government Code, or changes the definition of a crime within~~
14 ~~the meaning of Section 6 of Article XIII B of the California~~
15 ~~Constitution.~~